

REMARKS

In response to the Patent Office letter of September 15, 2004, the Applicant respectfully requests reexamination and reconsideration. To further the prosecution of this application, amendments have been made herein. The Examiner's attention is drawn to the fact that there has been indication of allowance of substantial subject matter including claims 2-5, 8-20, 33-36, 39 and 40. In making the amendments herein, the majority of the claims have been amended in accordance with the indication of allowable subject matter to place them in condition for allowance.

Before considering the rejections set forth by the Examiner, the Applicant now refers to the claim amendments.

The subject matter of claim 2 has been inserted into claim 1. This should clearly place claim 1 in condition for allowance as the Examiner has indicated that claims 2-5 contain allowable subject matter. Rather than amending claim 2, the applicant has simply added the subject matter of claim 2 into claim 1. The dependency of claims 3, 4 and 5 has been changed to comply with this amendment. Accordingly, all of the dependent claims 2-5, 7-23, and 26 should all be in condition for allowance as they depend either directly or indirectly from newly amended claim 1. Claim 25 has been canceled as it appears to be identical to claim 13.

In view of this amendment to claim 1, it is believed that the rejection set forth by the Examiner under 35 U.S.C. §103, is not moot. This rejection was based upon the Prowinsky and Miller patents. In view of the amendment to claim 1, it is not believed that any further comments are necessary regarding this rejection.

Regarding other subject matter indicated as allowable by the Examiner, it is noted that the Examiner has indicated that claims 33-36, 39 and 40 contain allowable subject matter. Claims 33-36 are dependent claims all depending directly or indirectly from claim 1 and should be found allowable. Rather than amending claim 33, the Applicant has simply inserted the subject matter of claim 33 into claim 32. Accordingly, claim 32 should be in condition for allowance. It is noted that other amendments have been made in claim 32, however, the combined claim should still be clearly

in condition for allowance. In view of the inclusion of the subject matter of claim 33 into claim 32, claim 33 has now been cancelled.

Claim 36 has been amended to include the subject matter of claim 1. Claim 36 has been indicated as allowable by the Examiner.

Claim 40 has been amended to include the subject matter of claim 1. Claim 40 has been indicated as allowable by the Examiner.

In addition to the aforementioned rejection under 35 U.S.C. §103, the Examiner has also set forth a rejection of claims 27-32, 37 and 38 under 35 U.S.C. §102(b) relying upon the Duncraft reference. It is believed that the amendments in claim 27 should now overcome this rejection. Two further elements have been added into claim 27, namely, "a seed holder cap closing the top of the cylindrical seed holder" and "a clamp separate from said hanger disposed between said cover and cap to prevent removal of said cover." Although the Duncraft reference shows a hanger, it does not show a clamp that is separate from the hanger. This feature is important in preventing animals from removing the cover. Accordingly, it is believed that claim 27 should be in condition for allowance. The subject matter of claim 31 has also essentially been added into claim 27 and accordingly, claim 31 has been canceled. Claim 30 has been amended to recite additional details relating to the clamp.

A similar amendment has also been made in claim 32 in which, in essence, the subject matter of claim 38 has been added into claim 32. Claim 32 thus also now includes "a clamp disposed about the seed holder above the cover." Again, it is the Applicant's position that the Duncraft reference does not show this arrangement. The inventor has carefully reviewed the Duncraft reference and is familiar with that product. The item number 18002 does not include any clamp disposed about the seed holder above the top or cover. In the Duncraft reference their seed holder body does extend above the cover but there is no clamp used. Accordingly, claim 32 should be found in allowable condition.

The Applicant has also added dependent claims relating to this clamp feature these claims all depend directly or indirectly from claim 32 and thus should also be in condition for allowance.

CONCLUSION

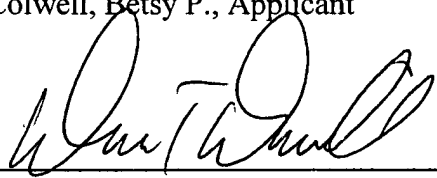
In view of the foregoing amendments and remarks, the Applicant respectfully submits that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicant hereby requests a telephone or personal interview to facilitate the resolution of any remaining matters. Applicant's attorney may be contacted by telephone at the number indicated below to schedule such an interview.

The U.S. Patent and Trademark Office is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our deposit account #19-0120.

Respectfully submitted,
Colwell, Betsy P., Applicant

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By: 
David M. Driscoll, Reg. No. 25,075
Applicant's Attorney
SALTER & MICHAELSON
321 South Main Street
Providence, Rhode Island 02903
Telephone: 401/421-3141
Facsimile : 401/861-1953
Customer No. 000987